

OXFORD OBSERVER.

"LOVE ALL, DO WRONG TO NONE, BE CHECK'D FOR SILENCE BUT NEVER TAX'D FOR SPEECH." SHAKESPEARE.

VOLUME II.]

PARIS, (ME.) THURSDAY MORNING, FEBRUARY 23, 1826.

[NUMBER 86]

Opinions

Of the Justices of the Supreme Judicial Court of the State of Maine, on Questions propounded to them by the House of Representatives, Jan'y, 1826.

Justice Weston's Opinion.

To the Speaker of the House of Representatives of the Legislature of Maine:

The undersigned, a Justice of the Supreme Judicial Court, having considered the questions submitted by an order of the House of Representatives, passed January 11th, 1826, which have been communicated to him through the Chief Justice, with a desire on his part that the undersigned would transmit his opinion, with his reasons, requests you to make known the following as his answer:

It may fairly be presumed that the framers of the Constitution of Maine, and the people in adopting it, although having before them the Constitutions of the United States and of other States, which were then members of the federal compact, had more especially in their contemplation that of Massachusetts; with the practical operation and effect of which they were familiar. By the frame of government adopted by that Commonwealth, it is provided that every corporate town, containing a specified number of rateable polls, may elect one representative; with the privilege of increasing the number, in a certain ratio prescribed, depending upon the number of rateable polls.

In 1811, the Justices of the Supreme Judicial Court of Massachusetts, in their answer to certain questions propounded by the House of Representatives, state that, "because the right of sending a representative is corporate, if the town, by a legal corporate act, vote not to send a representative, none can legally be chosen by a minority, dissenting from that vote." As this was a subject upon which their opinion had not been requested, this intimation had not the weight which belongs to a deliberate judgment upon the point in question; although, considering the high character of those by whom it was made, it was justly entitled to respectful consideration.

In June, 1815, the House of Representatives submitted the question directly to the same Court, "whether a town, having by the Constitution a right to send a representative or representatives to the General Court, can constitutionally and legally vote not to send a representative, and whether such vote would be binding on a minority of voters, dissenting therefrom, in such town?" The Court, all the Justices concurring, gave their opinion "that when a town is legally assembled for the purpose of electing a representative, if a vote pass not to send one, the minority dissenting from that vote cannot legally proceed in the choice." They added that, but for the provision which authorizes the House to impose fines upon such towns as neglect to choose; to send a representative, would seem to be a right or privilege, which a town might waive at pleasure, rather than a corporate duty. Their reasoning is to be found at length, at the close of the 15th volume of the Massachusetts Reports. In both Constitutions the language is optional, not imperative; and the power to impose a fine upon negligent towns is not given by the Constitution in the House of Representatives of Maine. This construction of the Constitution of Massachusetts, was well known to the framers of our Constitution and to the people; having been originally communicated to their representatives, published in the newspapers of the day, and also in the Massachusetts Reports, which, besides being in the hands of legal gentlemen, were by law distributed to every town in the Commonwealth. If therefore, those who were deputed to the high office of preparing and presenting a Constitution to the people of Maine, had deemed it expedient to impose an obligation upon the towns to choose representatives, which was not to be evaded, as well as to grant to them the privilege of doing so, it was easy for them to have used language indicative of such intention, which could not have been misunderstood. But when, with a full knowledge of the construction which had obtained in Massachusetts, they use language of the same import, the undersigned is constrained to infer that they intended that, in this particular our Constitution should receive the same construction. Nor does it appear to the undersigned that the variation in the rule, by which our representatives are apportioned, can fairly tend to justify a different conclusion.

But although a town or plantation may thus possess the power to waive their own privileges, it has no legal or constitutional control over those of others; and in order to bring a class or district, composed of several towns or plantations, within the rule adopted in Massachusetts, it would seem that all should concur in their corporate capacity, in the vote not to send a representative. Whenever one town or plantation, belonging to such district, deem it expedient to exercise their privilege, the undersigned is not aware that this is derived from the Constitution, any power or authority in the other towns or plantations in the district to deprive them of it. Their own rights are not thereby impaired; nor have they any just ground of complaint.

In answer to the first question, the undersigned, for the reasons before stated, would respectfully submit it as his opinion, that a town, having a right to choose a representative, has the power to waive that right, and to vote not to choose a representative, and that such vote does bind the minority in such town.

And to the second; that where towns and plantations are classed into districts, for the purpose of choosing a representative, any one or more of such towns or plantations have a right to send a representative, although a majority of the towns or plantations have voted not to send one.

NATHAN WESTON, Jun.

Justice Presble's Opinion.

To the Speaker of the Honourable House of Representatives of the State of Maine:

In compliance with the request, which the House did me the honour to express in their order, passed on the 27th inst, the undersigned now respectfully submits to them the opinions, he has been led to form, on the questions, proposed to the Justices of the Supreme Judicial Court by another order of the House, passed on the 11th inst, with the principal reasons, on which his opinions have been predicated.

The answer to the questions, proposed by the House, depends upon that another question, whether the right to be represented in the House belongs to the town in its corporate capacity of a town, or whether it belongs, as a personal right, to the individual electors, residing within the boundaries of such town; in other words, whether it be the corporation, that is represented, or the citizens, who reside within its territorial limits. This is a distinction, which

though it may at first appear to be nice, is not only palpable, but important. A corporation is a mere creature of the law; and there is no such thing, as a corporate right of representation independent, of positive institution. The right of the citizen on the contrary to act by himself or his representative is one of the first and fundamental principles of a free government. It is undoubtedly competent to the citizens to surrender this right, and to vest it in corporations, of which they may or may not be members. But such a surrender is inconsistent with the spirit of a free government. It is not therefore to be inferred from expressions of doubtful import, and, unless it plainly appears from the language of the constitutional charter, that it has been done, the surrender has not been made.

The idea of a corporate representation was derived in this country from the Constitution of the British Parliament; and our ancestors nearly fifty years ago, when the nature of free and representative government had not been so much the subject of discussion and inquiry, and was not perhaps so fully understood, engratified it, as is been held, into the Constitution of Massachusetts. When the people of Maine abrogated that Constitution, in so far as regards this State, the corporate right of representation ceased to exist, unless it was revived by the Constitution of Maine. Prior to the Separation of Maine a construction had been given to the Constitution of Massachusetts in relation to the right of representation by the Judges of the Supreme Judicial Court of that State. It was a construction, operating as a partial check to a growing evil, the increasing number of representatives. But the construction, thus given, was not readily acquiesced in. The Judges expressed their opinion to the House in 1811, and in 1815 we find the House solemnly calling upon the Judges for their opinion upon the same clause. As however a construction had been thus given, if the language of the Constitution of Maine is the same on the same subject matter, as the language of the Constitution of Massachusetts, it must be presumed to have been used with a view to that construction. But if the language used is essentially variant, then the construction, given to the language of the Constitution of Massachusetts, is no guide; on the contrary the difference of expression implies an intention to avoid that construction, and to convey a different meaning.

The language of the Constitution of Massachusetts on this subject is uniform and consistent. "Every CORPORATE TOWN may send;" "each town now incorporated may send one;" "no place shall hereafter be incorporated with the privilege of electing unless;" &c. "INCORPORATION was thus made an essential prerequisite to representation." Still treating the matter as a town right and duty, the House of Representatives itself was vested with authority to impose fines on towns, neglecting to send one or more representatives. Contemplating also the probability, that towns would to a very great extent neglect to exercise their right, though the House might consist, and actually has consisted, of more than six hundred members, such only made a quorum for doing business. Moreover, with the single exception that members should be chosen by written votes, no provision whatever is made in relation to the manner, in which the town meetings shall be conducted, who shall preside, or what proceedings shall be had. Excepting also in the solitary case of vacancy occasioned by appointment to office, no provision was made for a vacancy to be filled. Their representation therefore was a representation, properly speaking, not of the electors, as such—not of the people directly, but of corporate towns acting in their corporate capacity—not even of all corporate towns, but of such only, as had the requisite number of rateable polls. As a part of the same system also their representation in the Senate was predicated not on the electors or people, but simply on taxation.

If now we advert to the Constitution of Maine, we find the whole principle changed. The representation in the Senate and in the House is not a representation of taxation and corporate towns, but of electors—of the people themselves. The House of Representatives "shall consist" of a fixed number, to be determined within certain limits by the Legislature, "to be elected," not by the corporate towns acting in their corporate capacity, but in the same manner, and at the same time, and by the same persons as the Governor and Senators, "by the qualified electors."

Noting less than "a majority" of the whole number, as fixed and determined by the legislature, "shall constitute a quorum." If a vacancy happen "by death, resignation, or otherwise," provision is made that "it may be filled by a new election." The principle of incorporation, as a prerequisite to the right of representation, is no where recognized. On the contrary the words "corporate" and "incorporated," which so often occur in the Constitution of Massachusetts, are studiously omitted. The number of representatives to be "fixed and apportioned among the several counties as near as may be, according to the number of inhabitants." But, as the number of representatives, fixed and assigned to any county, would be large, and as it was desirable, that a member should be elected from every considerable section of the county, so that the House might be enabled to derive from its own members all necessary local knowledge; and in order that the people in every such section might act with greater intelligence in the choice of their representatives, and elect a person from among themselves, with whom they were personally acquainted, the counties were subdivided into districts, each town, having the requisite population, to constitute of itself a representative district, and towns and plantations, not having the requisite population, to be classed into districts containing the requisite population. And here the undersigned would beg leave to quote the language of the "Address," published by order of the Convention, that framed the Constitution. "Thus the great sections of the State, the several counties, actuated to a certain extent by a community of interests, have their due weight according to their population." "On any practicable system there will be fractions, and the representation of course partially unequal. If under the system, adopted by the Convention, the large towns having their full representation, it is preserved in the county, of which they are a part. They have their representatives; and even their fractions, which would otherwise be lost to them, are represented through the smaller towns of their county, who can seldom have an interest at variance with their own." In accordance with the same views is the language of the Resolves of March 22, 1821, apportioning the representatives in the several counties, towns, and plantations, and classes. "Resolved, That the county of York shall choose twenty-three Representatives, apportioned in the following manner;" "County of Cumberland shall choose twenty-five Representatives," &c. Hence it is manifest, that, if the majority of electors present at a constitutional meeting, held for the election of Governor, Senators, and Representatives, can by a mere

vote not to proceed in the election deprive the individual electors of their personal constitutional right to give their votes for Governor, Senators, and Representatives, such majority thereby not only waive their own right to vote, but debar the minority from exercising their individual electoral privileges; and in regard to the election of representatives, they also, at the same time waive the rights of the electors in other towns and districts, and deprive the county of a portion of its representation. In all our reasonings upon this subject, we should never lose sight of the consideration, that the voter sustains two relations, that of an inhabitant of the town, &c. and that of an elector under the Constitution. Because these two relations are sustained by the elector, he sometimes mistakes the capacity in which he is acting; and sometimes attempts to bring the power, he possesses as an inhabitant, to control or neutralize the power of his neighbour, possessed by that neighbour in his electoral capacity. But these two classes of powers are essentially distinct; and never can be brought to bear the one against the other. Hence it is, that in constitutional meeting a majority of the electors cannot vote "not to vote for Governor;" "not to vote for Senators;" "not to vote for a Representative;" so as to debar the minority from casting their votes for either of those officers. This position will be readily granted, it is presumed, so far as relates to the choice of Governor and Senators, but it is denied, as it relates to representatives. If there be a distinction, the undersigned has not been able to discern it, nor can he perceive any adequate reason why such a distinction should have been introduced. Every individual elector has a deep interest in being represented in the House of Representatives, to whom is confided the pursestrings of the people, and in whom is vested so large a portion of the state sovereignty, in the faithful, and judicious, and wise exercise of which, every individual of the community is concerned. That provision therefore of the Constitution, as already intimated, must be plain, which authorizes one or more electors by combining, not only to waive their own right, but to preclude others, contrary to their wishes, from the exercise of theirs. It is not in the power of the whole legislature, though representing the sovereignty of the State, to take away the electoral right, or to prevent its exercise, or even to modify it. These principles may be admitted, but application to the question under consideration denied; because, as it has been said, the electors in voting for representatives act in their capacity of inhabitants of towns or plantations. But that is assuming the very question at issue. If the right of representation is the corporate right of towns and plantations, for plantations too, it has been said, have their corporate right of representation, why is not the right of the several counties to their representation in the Senate the corporate right of the counties? "The counties are but larger corporations," say, like representative districts, they are districts, composed of towns and plantations. Why then may not each town and plantation in the Senatorial district vote in their corporate capacity not to choose Senators, or and thereby prevent and preclude the minority in such towns and plantations from casting their votes for Senators? The electors are assembled in town and plantation meeting, the same officers preside, the same proceedings are had in receiving, sorting and counting the votes, the same declaration is made in open meeting, and the same record of the proceedings is made in the town and plantation books. Does the distinction, said to exist, arise from the circumstance, that in a town possessing the requisite population to entitle the qualified electors within its limits to elect a representative, all the electors attend at the same place, in the same town meeting, and have their proceedings independent of the proceedings in other towns? This cannot be the ground of the supposed distinction, because it does not apply to the case of classed towns and plantations; nor, if it did apply, would it have any bearing upon the questions, proposed by the House. It had long been an established law and usage in this State, for the people in their primary assemblies to meet, and act, and vote, in town and plantation meeting; and towns and plantations had their municipal officers, whose duty it was to preside in and regulate these meetings. The Convention therefore, which framed the Constitution, wisely availed themselves of this long accustomed and familiar mode of proceeding in our primary assemblies, and this organization of our towns and plantations, not for the purpose of vesting in towns and plantations in their corporate capacity the right of representation, but for the purpose of collecting in a manner, the most convenient, expeditious, and unexceptionable, the votes of the qualified electors for Governor, and for Senators, and for Representatives. It was for the same obvious reasons, that towns, possessing the requisite population, were made representative districts by themselves without being associated in the election with other towns. With the same views and policy, we find, they have inserted a provision, that in making a representative district, no town shall be divided. That towns, having from every considerable section of the county, so that the House might be enabled to derive from its own members all necessary local knowledge; and in order that the people in every such section might act with greater intelligence in the choice of their representatives, and elect a person from among themselves, with whom they were personally acquainted, the counties were subdivided into districts, each town, having the requisite population, to constitute of itself a representative district, and towns and plantations, not having the requisite population, to be classed into districts containing the requisite population. And here the undersigned would beg leave to quote the language of the "Address," published by order of the Convention, that framed the Constitution. "Thus the great sections of the State, the several counties, actuated to a certain extent by a community of interests, have their due weight according to their population." "On any practicable system there will be fractions, and the representation of course partially unequal. If under the system, adopted by the Convention, the large towns having their full representation, it is preserved in the county, of which they are a part. They have their representatives; and even their fractions, which would otherwise be lost to them, are represented through the smaller towns of their county, who can seldom have an interest at variance with their own." In accordance with the same views is the language of the Resolves of March 22, 1821, apportioning the representatives in the several counties, towns, and plantations, and classes. "Resolved, That the county of York shall choose twenty-three Representatives, apportioned in the following manner;" "County of Cumberland shall choose twenty-five Representatives," &c. Hence it is manifest, that, if the majority of electors present at a constitutional meeting, held for the election of Governor, Senators, and Representatives, can by a mere

a majority of those towns and plantations; nor then, and then only, would he have a majority of the corporate voices. The moment we depart substantially from this mode, and ascertain the result of the election in the manner, prescribed by the Constitution, as already mentioned, we, as a necessary and inevitable consequence, totally depart from the doctrine, that in a representative district the right of representation is vested in common in the several towns and plantations in that district in their corporate capacity. In a representative district therefore, if the right of representation by a corporate right, it is vested in the district itself, as a corporation, and not in the several towns and plantations, of which that district is composed. That the right of representation in the Senate is not vested in a senatorial district in its corporate capacity, and that the right of representation in the House is not vested in a representative district in its corporate capacity, where that district is composed of several towns and plantations, are positions, which the undersigned presumes, he may take for granted; and in these points he forbears attempting any further elucidation.

No inference, it is believed, can be drawn in favour of the position, that the right of representation is a corporate right, vested in towns, from those provisions of the Constitution, which require the votes to be given in by the qualified electors in town meeting, that "the Selectmen shall preside," and that the votes shall be recorded by the "town Clerk," and "in the town books;" for the same argument would prove, that the electors acted in their capacity of inhabitants or corporations, when voting for Governor and Senators. Nor can any such inference be drawn from the use of the word "town" in such expressions, as "each town may elect;" for this is only an abbreviated mode of expression in common and familiar use, meaning the qualified electors in the town may elect; as it is said the town gave so many votes for Governor, the county chose its Senators, the district its Representatives, and the parallel expression, "each district may elect." And, as has already been suggested, if that expression proves that an unclassed town in choosing a representative acts in its corporate capacity, the same expression would prove, that a representative district in choosing a representative acts also in its corporate capacity; whereas, so far from acting in that capacity, it is not even a corporation.

It may perhaps be said, that the Constitution by the word "may" in the expression "each town may elect" leaves the town at liberty to elect or not to elect, as it may please; and hence, it is inferred, the town in determining the question, whether to elect, or not to elect, must act in its corporate capacity; and so, if it proceed to elect, it does so in its corporate capacity, and the right of representation is a corporate right. That a town has, and a representative district has, in a constitutional sense, and in a constitutional manner, a right to determine whether they will elect or not to elect is admitted; but the inferences, that are thus attempted to be drawn are denied. If "to elect or not to elect" is at the option of the town, in its corporate capacity, it is a constitutional privilege, and no penalty can ever be imposed, or fine exacted for declining or refusing to elect. It has already been stated, that, as by the Constitution of Massachusetts it was the "corporate town," which had the option to elect or not to elect, and by which also the election of a member was to be made, so by an express provision of the same Constitution the House was vested with power to impose fines upon any delinquent town for neglecting to choose and return a member. The *constitutional omission* of the epithet "corporate" in our Constitution shows, that the word town is used in its popular, and not in its corporate acceptation. This latter acceptation of the word, it is believed, is not the most usual one even among ourselves, and at the same time is almost peculiar to the northern States. If it were important, that the power to impose a fine on a delinquent town should be possessed in Massachusetts, how incomparably more important is it, that it should be possessed in Maine where the whole number is fixed or limited, and comparatively small, and where also a majority of the whole is necessary to constitute a quorum. The total omission of the clause giving the power to fine, can only be accounted for on the position already assumed, that the word "town" is used, not in its corporate, but in its popular acceptation; for, the word being used in this latter sense, the town in its corporate capacity has nothing to do with the election, and therefore cannot be guilty of any neglect of duty in relation to the subject. And this leads us to the true meaning and force of the word "may," as used in the clauses, "each town may elect, &c." "each district may elect, &c." In some of the ancient republics, it is said, every citizen, entitled to vote, was obliged to vote in questions, which came before the people; but under our free governments to compel an elector to vote against his will would be an anomaly in legislation. The "qualified electors" therefore may all be compelled to vote, or may all be allowed to decline to vote. The word "may" is used, not in its corporate, but in its popular acceptation; for, the word being used in this latter sense, the town in its corporate capacity has nothing to do with the election, and therefore cannot be guilty of any neglect of duty in relation to the subject. And this leads us to the true meaning and force of the word "may," as used in the clauses, "each town may elect, &c." "each district may elect, &c." 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IN THE HOUSE.

"qualify electors, &c., & so, court and declare, that in a town meeting, &c." If then at a meeting for the choice of representatives, warden in due course of law, a qualified elector does present himself, and demand to be allowed to put his vote, where is the provision that will authorize the Selectmen to refuse his vote. Where is the provision, which authorizes the majority of electors present to say, that the minority shall not have the privilege of putting in their votes. Those provisions of the Constitution are identically the same, by which the Selectmen are required to receive the votes for Representatives, and for Senators, and for Governor. They are peremptory. On what principles of construction are the Selectmen authorized to refuse the vote tendered, if it be for a Representative, but are bound to receive it, if it be for Senators, or for Governor. As the Constitution places them all upon precisely the same footing, making no distinction whatever, the undersigned, do make none.

Again, it is provided by the Constitution, article 4, part second, section 3d, that "qualified electors, living in places unincorporated, who shall be assessed to the support of Government by the assessors of an adjacent town, shall have the privilege of voting for Senator, Representatives, and Governor, in such town." Here then is a class of electors, residing within the limits of no town, or organized plantation, who have the right to vote for Representatives in the adjacent town, can these electors be deprived of their electoral privileges by the town in its corporate capacity voting not to elect?

They do not belong to the town in its corporate capacity, and therefore cannot be parties to such a vote of the town. And yet, if the doctrine of the corporate right of representation be sound, such a vote by the town would deprive such electors of their constitutional privilege. This provision of our Constitution is copied with some slight necessary alterations from the Constitution of Massachusetts. There however, the right to vote does not extend to the voting for Representatives; but is confined to the voting for Senators. The enlargement of this right to the voting for Representatives, while it is in perfect consistency and harmony with the other provisions of our Constitution, is inconsistent with every principle of corporate representation. The undersigned has not exhausted the subject, but he forbears to enlarge farther. The Constitution of Maine has few, and but few, anomalies to disfigure its features, and make its proportions—it is believed not to be the part of wisdom, to add to the number by construction.

The undersigned is therefore of the opinion that

1st. A town, having the right to choose a Representative, has not the power to waive that right, and vote not to choose a Representative, and such vote would not bind the minority in such town. And

2dly. Towns and plantations, classed into districts for the purpose of choosing a Representative, have a right to send a Representative, notwithstanding a majority of the towns and plantations have voted not to send one.

WILLIAM PITTS PREBLE.

JANUARY 31, 1823.

MAINE LEGISLATURE.

IN THE SENATE.

FRIDAY, Feb. 10.

Passed to be enacted—Bills dividing the town of Baldwin and incorporating the town of Sebago; a bill to regulate the taking of Salmon, Shad and Alewives in the town of Machias, passed February 27th, one thousand eight hundred and ten; to incorporate the town of Howland, and to authorize the Selectmen of Gardner to appoint an additional number of engineers.

Leave to bring in a bill was reported on the petition of James Holmes and others.

Passed to be engrossed—bill to incorporate the Livermore Bank, after discussion about an amendment proposed by Mr. Williams, providing that a certain number of the petitioners should become stockholders in said Bank to the amount of at least \$300. The amendment was finally lost, and it passed to be engrossed, as reported.

On motion of Mr. Holland, it was

Ordered, That the Committee on the Judiciary be instructed to inquire into the expediency of tenuring the act additional to an act for the limitation of criminal and personal, and writs of error, passed Feb. 23, 1823, with leave to report by bill or otherwise.

On motion of Mr. Stevens, it was

Ordered, That the Committee on Literature and Literary Institutions be instructed to inquire into the expediency of providing that the Governor of the State shall ex-officio be a member of the Board of Trustees of Bowdoin College.

Order of the House of R. that the Joint Standing Committee on Literature and Literary Institutions be instructed to inquire what measures are necessary to be adopted by the Legislature to secure the establishment of a National Astronomical Observatory at Brunswick, passed in concurrence.

SATURDAY, Feb. 11.

Passed to be enacted—Reserve for the benefit of Dennis Town.

Passed to be engrossed—Bill respecting Lotteries and Lottery Tickets; additional respecting the militia; establishing the time of holding the Supreme Judicial Court within the State.

MONDAY, Feb. 13.

Petition of Benjamin Chandler, Judge of Probate for the County of Oxford, for an increase of salary, was read and referred.

York County Question.—The report of the Joint Select Committee on the petition of Nahum Smith and others, relative to the removal of York County Court, granting an order of notice, acceptance of which was refused in the Senate and ordered that the Petitioners have leave to bring in a Bill, came up from the House non-concurred in granting leave for a Bill and accepted, and the Senate adhered to their former vote whereby they had refused to accept the report and had given leave for a Bill.

TUESDAY, Feb. 14.

Agreeably to assignment the Senate proceeded to ballot for the choice of a Major General on their part, of the 4th Division of the Militia of this State. The whole number of votes were 17, and Colonel Samuel Veazie had 9, and was declared duly elected on the part of the Senate.

WEDNESDAY, Feb. 15.

A message was received from the House that on the 4th ballot, they had again made choice of Richard T. Dunlap as Major General of the 4th Division.

Order of the House of R. that the Committee on the Judiciary be required to take into consideration the expediency of passing an act exempting from attachment, execution or distress all debts in the several meeting-houses within the State, with leave to report by Bill or otherwise.—And

That the Joint Standing Committee on Literature and Literary Institutions be instructed to inquire into the expediency of adopting measures to procure such books and other publications as may enable the members of the Legislature and other persons connected with the Government of this State to obtain, at any time, necessary information in relation to any subject upon which they may be called upon to act in the discharge of their official duties, and to lay the foundation of a library for that purpose, were severally read and passed in each house.

IN THE HOUSE.

FRIDAY, Feb. 10.

County of Waldo. Bill to incorporate the County of Waldo was taken up and read once, and in the second reading, Mr. Snow of Frankfort, moved to insert the towns of Freedom, Unity, Montgomery and Burnham, in the County of Kennebec, which was decided in the negative by a vote of 55 to 54. Mr. Little moved to include in the bill the towns of Union and Washington in the County of Lincoln, on the ground that these towns were included in the petitions for a new county. The House negatived the amendment by a large majority. Mr. Little then moved to exclude from the new county the town of Frankfort. He said this town had not petitioned to belong to the new county; but it had repeatedly petitioned to be set off to the county of Penobscot. He thought, therefore, that the known wishes and interests of that town ought to be so far consulted as to leave it out of the new county.

Mr. Snow of Frankfort, advocated the amendment. Mr. Hazeltine of Searsport, opposed the amendment.

Mr. Bent of Bangor, was in favour of the amendment. He stated that the town of Frankfort had a long time been petitioning to be annexed to Penobscot. That town is nearer to Bangor than Belfast, and most of its business was transacted at Bangor. He thought that town ought not to be compelled to belong to the new county so manifestly against its interest.

Mr. Warren of Jackson, opposed the amendment.

Mr. Clark of Hallowell, was on the committee to whom this subject had been referred. He stated that one of the principal subjects of discussion before the committee was the town of Frankfort. The result was that the committee was perfectly satisfied if the new county was granted, that the town of Frankfort ought to belong to it.

The question being taken, the House decided not to strike Frankfort out of the Bill by a vote of 58 to 41.

Mr. Quinnam, of Wiscasset, then moved to strike out from the Bill, all the towns belonging to the county of Lincoln.

The motion was supported by Mr. Jewett of Bowdoinham, Delano of Woolwich, Festenden of Portland, Burr of Litchfield, Richardson of Jefferson, and Hodgman of Warren—and opposed by Messrs. Warren of Jackson, Hazeltine of Searsport, Johnson of Belfast, and Gowin of Montville.—The question being taken on striking out the towns of Lincoln county, it was decided in the negative, 57 to 46.

Mr. Hodgman of Warren, then moved to insert in the Bill the towns of Freedom, Unity, Montgomery and Burnham, in the County of Kennebec. The question was put and decided in the negative, 50 to 40.

The bill was then passed to a third reading by a vote of 57 to 40; and Wednesday next at 10 o'clock was assigned for the third reading.

THURSDAY, Feb. 14.

The Committee on the Judiciary was instructed to inquire into the expediency of exempting from attachment, &c., all debts in the several Meeting-Houses in this State.

Bills read and committed—To incorporate the proprietors of the Baptist meeting-house in Machias Port—to incorporate the Livermore Bank—establishing the times of holding the Supreme Judicial Court.

State Tax.—The Committee on Finance were on their report, ordered to prepare a Bill for raising \$50,000 on polis and estates.

WEDNESDAY, Feb. 13.

Bills read and committed—Bill additional to the act authorizing a Lottery for the benefit of Cumberland and Oxford Casal.

Major General of 4th Division.—The whole number of votes was 122, Richard T. Dunlap had 92, and was declared elected on the part of the House.

The subject of annexing Benjamin Woodbury and others of Buckfield to Paris was called up, and the House refused to re-consider their vote, whereby they refused the Bill a second reading.

Bill incorporating the County of Waldo, was reported with sundry amendments which were adopted.

—Mr. Snow then moved a reference of the Bill to the next Legislature, which motion was lost. Yeas 54, Nays 60, and the papers were ordered to lie on the table.

Bill to incorporate the County of Waldo was called up and a motion was made to strike out Vinalhaven, which prevailed. An amendment was then offered by Mr. Quinnam providing that the towns taken from Lincoln County, be held to the payment of all debts justly due of their equal proportion from the County of Lincoln—the amendment proposed did not prevail.

Bill incorporating the County of Waldo, was reported with sundry amendments which were adopted.

—Mr. Snow then moved a reference of the Bill to the next Legislature, which motion was lost. Yeas 54, Nays 60, and the papers were ordered to lie on the table.

THURSDAY, Feb. 16.

Petition of Silas Estes and others of Westbrook, to have the Legislature meet in May or June instead of January; of John Ruggles for a Lottery in behalf of a corporation in Thomaston, for the purpose of exploring certain places in said town for coal mines; of Ralph C. Johnson and others for a lottery.

Ordered, that the Joint Standing Committee on the Judiciary, be instructed to inquire into the expediency of proposing an amendment of the Constitution of this State, so that the Legislature shall convene on the last Wednesday of May annually, or on any other day that may be deemed expedient, instead of the first Wednesday of January, with leave to report by Bill or otherwise.

FOREIGN.

Death of Alexander.—The official history of the death of Alexander had not reached London as late as the 25th of Dec., and the event was still doubted by many. Bell's Weekly

Messenger of that date, which bestows nearly a column of remarks on the subject, says, that "it has very seldom happened, that an event of so much importance has been communicated in a manner so strange and mysterious.

The announcement being more like the advertisement of the death of a banker or merchant, and a common obituary." Among the many rumours respecting his death was one that he had fallen by violent means.

In speaking of the consequences of this event and the succession of Constantine, the Messenger remarks:

[Best States.]

"There can be very little doubt but that there will be an instantaneous attack upon the Turkish Empire, and that the whole face of Europe in that part of the world will be immediately altered. It is not only, the well known intention of Constantine to adopt this course, but it is his immediate interest. It is the only means by which he can conciliate his enormous and savage army. All accounts agree it is only by his army that he can hope to reign in safety, and he must therefore at once employ his soldiers, and employ them in some object conformable to their wishes. The effect of such a step

by Constantine would be an immediate agitation of all those elements on the continent of Europe, which had lately been kept tolerably quiet by the principles of the Holy Alliance. If Constantine should take the part of the Greeks against the Turks, it would be impossible for Austria to remain neuter. The fire would be immediately kindled in the centre, and burn onwards to the remotest corner of Europe. What the result might be, it is difficult to say. But, we trust, should such an event occur as a general continental war, that Great Britain will perform a part worthy of her; by protecting from slavery and subjugation, those illustrious States, which are entitled to no less from ancient fame and recollection, to her assistance and support, than from the brave and glorious struggles which they have recently made, to escape from the most brutal bondage."

A letter from Frankfort, dated Dec. 22, states that the Grand Duke Michael is appointed Vice Roy of Poland.

WARS BETWEEN FRANCE AND ENGLAND.—The *Paris Moniteur* says that in consequence of an English brig having been detained at St. Sebastian's in Spain, by the present French Government, (a circumstance which has lately been noticed in all the papers,) a report prevailed at Madrid, in the early part of last month, that war had broken out between France and England. Numerous speculations were made on this opposition; and the report excited at Madrid very strong sensations.

By a late arrival at Boston, from South America, news has been received of the following declaration of War by the Government of Brazil, against the United Provinces of Rio de la Plata:

The Government of the United Provinces of Rio de la Plata having committed acts of hostility against this Empire without provocation, or previous formal declaration of War, rejecting thus the forms established among civilized nations, it is required by the dignity of the Brazilian people and the rank which belongs to us among powers, that I, having heard my Council of State, should declare, as I now do, War against the said Provinces and their Government, directing that by sea and land, all possible hostilities be waged upon them, authorizing such armaments as my subjects may please to use against that nation—declaring that all captures, prizes of whatever nature, accrue entirely to the captors, without any deduction in favour of the public treasury. [Follows the regulation for the publication and distribution of the decree.]

Rio Janeiro, 10th December, 1825. Fourth year of the independence and the Empire.

PERKIN'S STEAM GUN. Some experiments have been recently made with Perkin's Steam Gun, at the Manufactory near Regent's Park, England. These experiments were made in the presence of his Grace the Master-General of the Ordnance, and his Staff; the Marquis of Salisbury, Mr. Peel, Sir H. Hardinge, Lord Fitzroy Somerset, the Judge Advocate General, and many Military Officers of the highest rank; together with a committee of Engineer and Artillery Officers, who, it appeared, had been officially appointed by the Duke of Wellington to examine into the merits of this wonderful specimen of human ingenuity and destructive power. We make the following extract from the London Times of Dec. 11. [Best States.]

"At first the balls were discharged at short intervals, in imitation of artillery firing, against an iron target, at the distance of thirty-five yards. Such was the force with which they were driven, that they were completely shattered to atoms. In the next experiment the balls were discharged at a frame of wood, and they actually passed through eleven one-inch planks of the hardest deal, placed at the distance of an inch from each other. Afterwards they were propelled against an iron plate one-fourth of an inch thick, and at the very first trial the ball passed through it. On all hands this was declared to be the utmost effect of force that gunpowder could exert. Indeed we understand that this plate had been brought specially from Woolwich, for the purpose of ascertaining the comparative force of steam and gunpowder. The pressure of steam employed to effect this wonderful force, we learnt on inquiry, did not at first exceed 65 atmospheres or 900 lbs. to the square inch; and it was repeatedly stated by Mr. Perkins that the pressure might be carried even to 200 atmospheres with perfect safety. Mr. Perkins then proceeded to demonstrate the rapidity with which musket balls might be projected by its agency. To effect this he screwed on to the gun-barrel a tube filled with balls, which falling down by their own gravity into the barrel, were projected one by one, with such extraordinary velocity as to demonstrate that, by means of a succession of tubes, filled with balls, fixed in a wheel, (a model of which was exhibited,) nearly one thousand balls per minute might be discharged! In subsequent discharges or volleys, the barrel, to which is attached a moveable joint, was given a lateral direction, and the balls perforated a plank nearly twelve feet in length. Thus, if opposed to a regiment in line, the Steam Gun might be made to act from one of its extremities to the other. A similar plank was afterwards placed in a perpendicular position, and in like manner, there was a stream of shot-holes from the top to the bottom. It is thus proved that the Steam Gun has not only the force of gunpowder, but also admits of any direction being given to it. But what seemed to create most surprise was the effect of a volley of balls discharged against a brick wall by the side of the target. They absolutely dug a hole of considerable dimensions in the wall, and penetrated almost one-half through its thickness.—*Niles*.

Mrs. Mary Stocker, in the 103d year of her age, is now living in Galway, (N. Y.) She never saw any Tea till she was 17 years old, nor Potato till she was 20. When Tea first came into use, the women used to carry cups and saucers in their pockets when they paid a visit. The men were at first afraid to plant Potatoes, lest it should be impossible to root them out.

Capt. Mervia, of the *Graff Zinzendorf*, arrived at this port yesterday, states that it had not rained in Ceara, (North Coast of Brazil) for the last 3 years; in consequence of which, the inhabitants were reduced to the necessity of depending entirely upon their live stock for subsistence.—*Charleston Courier*.

General John Miller has been elected Governor of the State of Missouri, by a handsome majority.

DOMESTIC.

DETROIT, Jan. 10.

Indian Murder. On Saturday last, about sunset, an Indian of the Saginaw tribe was found in one of the lower streets, nearly dead from a deep cut made on the back part of his head with a tomahawk. Suspicion immediately rested upon Kishkawko, the notorious war-chief, long known for his many and atrocious murders. He was pursued by the deputy sheriff, Mr. Hunt, with a posse, and overtaken about midnight, at the house of the agent, Col. Beaufait. He and his son, with two other Indians, were found asleep, the young man with his father's tomahawk under his head. On being awakened, and finding the tomahawk and other weapons secured, he observed that the former might have blood on it, as he had used it to cut meat the day before. On being told that it was the Governor's wish that they should immediately appear before him, they quietly surrendered themselves to be taken to prison. The wounded Indian died in the night.

On Sunday morning, Mr. Woodworth, corner of the county, assembled a jury who, after a strict investigation, which occupied nearly the entire day, unanimously found a verdict of murder against Kishkawko and his son the Big Beaver; the latter as principal, and the former as accessory before the fact. The two other Indians were discharged, nothing having appeared to lead the jury to believe that they were participants in the crime.

Another.—The bodies of three Indians were found in the road, near Swan Creek, in the county of Monroe, on Sunday morning last, mangled in a most shocking manner. We have learned no particulars.

RALEIGH, (N. C.) Feb. 3.

It becomes our painful duty to record the most distressing event which has occurred in our city for many years: At about sunrise, on Monday last, *Southey Bond*, Esq. committed suicide, in one of his out-houses, by cutting his throat with a razor. He was in his 56th year, had been a merchant in this place for about 30 years, and had maintained through life, a character of incorruptible integrity and great frankness of manners, with a politeness and hospitality, which endeared him to all his friends and acquaintances. He had, for 15 years, been a member of the Baptist Church, and his deportment corresponded with his profession—his piety was undoubted. He has left an affectionate wife and four promising children to lament their irreparable loss. We understand that, for several weeks previous to his death, he appeared to be much distressed in mind, and that even

THE OBSERVER.

PARIS, (ME.) THURSDAY, FEB. 23, 1826.

In this paper we have completed the publication of the opinions of the Judges of the Supreme Court, with respect to the questions submitted to them by the House of Representatives, sometime since. In doing this, we have excluded considerable other matter. But, as there are different opinions among Judges, as well as other men, we presume that both sides of the question will be read with interest. Perhaps we never saw a time when the old adage—"who shall decide, when Doctors (Judges) disagree?" could be used with more propriety.

We learn that the House of Representatives decided by a majority of about 60 votes, that Mr. Strow, the member from Limington, &c. was entitled to his seat, thereby evincing their preference for the opinion of Judge PREBLE.

MAINE LEGISLATURE.—The Legislature of this State still continues in session. The business which has been dispatched of a public nature, as yet, is very limited; at least in amount. Would it not be for the interest of the State to have the Legislature meet in May or June, when the length of the days would afford the members time to transact a little business? At this season of the year the days are short, and generally cold; consequently, the State must be at the expense of keeping good fires with wood at five dollars per cord;—and still many of the members are half frozen, and some quite torpid; and if they once get warm, they hardly know when or where to make a stop. It may be urged on the other hand, that should they meet in May or June, many of the members would be dull and sleepy. This, perhaps, might be the case; but at the same time we would submit it to the good sense of the people, whether we have derived more benefit from a large part of our winter Sessions, than we should have done if some of the members slept soundly. It would certainly have been one advantage—we should have had some sound Legislators.

LIVERMORE BANK.—We perceive by the journals of the Legislature, that the Petitioners for a Bank at Livermore are likely to succeed. We have no doubt from what we can otherwise learn on the subject, that the Stock will be very readily taken up; although the Hon. Mr. Williams, of Kennebec, wished to effect an amendment to the Bill, by making a certain number of the Petitioners become stockholders in the Bank to the amount at least of \$500. We suspect that the Hon. gentleman must have been governed by selfish motives wholly, or he never would have made a motion of this kind—it is often the case that men, who petition for a Bank, never expect to be stockholders. Do all the Petitioners for the Dam at Augusta, mean to be stockholders? According to the theory of the Hon. gentleman from Kennebec, they should be.—It is very possible that both projects, when carried into effect, will cause some stoppages—perhaps Augusta Bank Bills will not circulate quite so freely in Livermore and its vicinity.

STATE PRISON.—Through the politeness of a friend at Portland, we have been furnished with "a general statement of the affairs of the Maine State Prison, January 2, 1826." By which it appears, that on the 7th of January, 1825, the number of convicts were 53.—33 were discharged the past year, 3 pardoned, and 1 escaped—leaving 16 in prison. During the same period 56 were received, which makes the whole number 72. There were 56 committed for larceny—2 for counterfeiting, or having counterfeit money in their possession, with intent to pass the same—3 for manslaughter—2 for adultery—1 for adultery and lewdness—4 for lewdness—1 for assault, &c. and 2 for forgery.

The whole amount of the expenses for the prison, was \$9,571 43. The whole amount of income, was \$9,294 71—leaving a balance against the prison, of \$276 77.

CONGRESS—has been busily engaged for several days in discussing what may be termed the Panama question. Considerable time has been spent in deciding whether the House of Representatives should call on the President for all the information he had on the subject, or only for what he was pleased or *see fit* to give them. We suspect it will make very little difference with the President which way the call is made. That our readers may understand the subject a little better, we give the words of the Resolution, which are as follow:

[To be continued.]

TO CORRESPONDENTS.

The favour of "Edwin" will be inserted next week. We have also received some more poetic effusions from the pen of "OITHONA," which we shall with pleasure give place soon.

Married,

In this town, on Monday last, by Asa Barton, Esq. Mr. HENRY KNIGHT to Miss SOPHIA SHIRTLIEF.

In Richmond, (Mass.) Hon. Nathaniel Bishop, aged 76. He was one of the framers of the original State Constitution, and for a number of years was Judge of the Court of Common Pleas and Register of Probate.

In Hubbardston, (Mass.) Mr. James Thompson, aged 63.

In Germantown, (Penn.) widow Dorothy Somerlot, aged 101. She made her own shroud, 30 years ago, and when opened, it was found decayed beyond all possibility of use!

In New-York city, Mrs. Margaret Kline, aged 103.

In Portland, Hon. John Frothingham, aged 76, for many years a Counsellor at Law in that town, and one of the Judges of the Court of Common Pleas from 1804 to 1811, at which time that Court was dissolved.

In Greenfield, (Ms.) Mary Newcomb, wife of Col. R. E. Newcomb, and only surviving daughter of Joseph Warren, who was killed at the battle of Bunker Hill. She inherited the personal, as well as mental qualities which are said to have characterized that distinguished patriot.

At Portsmouth, (N. H.) Jonathan Payson, Esq. Postmaster, aged 74.

At Haverhill, Mehitable, widow of the late Joseph Haynes, Esq. aged 96.

At Methuen, Mr. James Fry, aged 86. He was the oldest son of Gen. James Fry, late of Andover, and nephew to Rev. Jona. Fry, who was chaplain in the company under Capt. Lovell against the Indians, and died near Pigwacket.

NEW TAVERN.

THE subscriber informs his friends and the public, that he has opened a PUBLIC HOUSE, in Norway Village, between the Hay Scales and the Universalist Meeting-house, where he has all the accommodations which are convenient to the Traveller, and which he will afford on as low terms as any other Innholder. He solicits the public patronage; and means by assiduity and attention to deserve it.

INCREASE ROBINSON.

Feb. 22.

Norway, Jan. 25, 1826.

COLLECTOR'S NOTICE.....Paris.

NOTICE is hereby given to the non-resident Proprietors of the following lots of Land, lying in Paris, in the County of Oxford, and State of Maine, that they are taxed in the bills committed to me the subscriber, to collect for the year 1826, in the following sums, to wit:

Names.	Tots.	Range.	No. of Acres.	Value.	Tax.
Josiah Bartlett,	29	1	50	100	1 65
Bailey Bowdwell, part,	6	1	20	60	99
Unknown,	29	3	100	150	2 48
Do. East part,	5	6	50	100	1 43
Do. N. part,	25	7	100	200	3 30
	26				2 87

And unless said taxes and all intervening charges are paid to me the subscriber, on or before Wednesday the twenty-ninth day of March next, at one o'clock in the afternoon, so much of said lots will then be sold at the Court-House in Paris, as will pay the same.

CYRUS HAMLIN, *Collector.*

Paris, Feb. 11, 1826.

COLLECTOR'S NOTICE.....Bethel.

NOTICE is hereby given to the proprietors of the Lands herein after mentioned, in the town of Bethel, County of Oxford, that the same are taxed in the bills committed to me the subscriber, for collection, for the State, County and Town, and School Taxes for 1825, and for deficiency of Highway Tax for 1825, in the respective sums following, to wit:

Proprietor's names.	No. of Lots.	No. of Acres.	State & Co. Tax.	Town & School Tax.	Deficiency of Highway Tax.	Total.
N. Bigsby,	1	9	100	12	26	38
Do.	1	10	100	14	29	43
Unknown,	1	12	100	12	26	34
J. Walker,	1	13	50	6	13	19
C. Studson,	1	21	100	16	34	50
Unknown,	2	4	100	12	26	34
Amasa Clark,	2	15	100	12	26	34
Unknown,	2	16	100	10	21	31
Wm. Reed,	2	17	100	12	26	33
A. Gage,	2	19	100	12	26	33
Wm. Reed,	2	21	100	10	26	36
J. Grover,	2	23	75	10	21	31
E. Richardson,	2	28	100	12	26	33
Wm. Russell,	3	4	100	12	26	33
N. Bigsby,	3	9	100	10	21	31
Unknown,	3	11	100	16	34	59
Do.	3	12	100	6	13	35
D. Grout,	3	20	100	12	26	33
—Little,	3	22	20	.6	13	19
E. Rowe,	3	24	100	14	30	44
Unknown,	3	26	100	12	26	33
I. Town, agt.	3	27	100	14	29	43
Unknown,	4	3	100	8	17	25
Do.	4	2	100	.6	20	20
J. Ellwood,	4	24	50	10	21	61
C. Twitchell,	8	23	100	12	26	33
E. Rowe, agt.	9	30	50	10	21	31
D. Grout,	9	29	100	10	20	44
E. Chapman, agt.	10	25	100	14	29	43
Unknown,	10	27	20	3	6	9
Do.	11	20	32	.6	20	20
Do.	11	21	28	.6	20	20
Do.	11	22	20	.6	16	13

Unless said taxes and all necessary intervening charges are paid to me, the subscriber, on or before Sunday the twenty-seventh day of March next, so much of said land as will satisfy the same, will then be sold at Public Auction, at the Store of O'Neill, N. Ronrison, in said Bethel, at one of the clock in the afternoon of said day.

AARON MASON, *Collector.*

Bethel, Feb. 3, 1826.

To the Hon. Benjamin Chandler, Judge of Probate, of Wills, &c.

WE the undersigned, your Petitioners, heirs in common to the real estate of AMOS TRASK, late of Dixfield, Gentleman, deceased, humbly sheweth, that we wish to hold our shares of said real estate in severally, according to our respective ownerships. We therefore pray that your Honour would order a division of the same, as the law in such cases provides.

PETER TRASK,
SILAS BARNARD,
BENJA. CHAPLIN,

MOSES PARK,
& Susan Trask.

Dated at Dixfield, Jan. 23, 1826.

At a Court of Probate held at Paris, within and for the County of Oxford, on the twenty-fourth day of January, in the year of our Lord eighteen hundred and twenty-six.

UPON the foregoing Petition, ORDERED—That the Petitioners give notice to all persons interested, by causing a copy of said Petition with this Order thereon to be published three weeks successively in the Oxford Observer, printed at Paris, that they may appear at a Probate Court, to be held at Paris, on the fourth Tuesday of March next, and shew cause, if any they have, why the prayer of the Petitioners should not be granted.

BENJAMIN CHANDLER, *Judge.*
A true Copy of the Petition and Order thereon.

Attest, THOMAS WEBSTER, *Register.*

BLANKS,

CONSTANTLY on hand, and for sale at the Oxford Bookstore:

Warranters, Quit-claims, and Mortgag Deds;

Collectors', Sheriffs', and Administrators' Deds;

Sheriffs' and Constables' Bail Bonds;

Town Orders;

Town Clerks' Certificates of Publication;

Blanks for Surveyors of Highways;

Collectors' Receipts;

Blank Notes, &c. &c.

Also—A good assortment of Attorneys' and J.

Es' Blanks—on reasonable terms.

Portland, Jan. 17, 1826.

Feb. 23.

See 32

POETRY.

FROM THE U. S. LITERARY GAZETTE.

A SIMPLE STORY.

There never was a gentler creature,
In city, village, or in town,
Or one of lovelier heart and feature,
Or better taught, than Anne Brown.

Her step was like the antelope's,
Her eye beamed like a startled kid's,
Her cheek soft blushing with the hopes
That youth into existence bids.

The village loved her, friendship hued it;
And if the tale of slander came,
Both old and young rose up and crush'd it,
And fixed on other cheeks the shame.

It was seldom needed—female virtue
Has in itself protection strong;
And maidens, if the viper hurt you,
It must be ye are in the wrong.

There came one day to woo the maiden,
A sparkling youth in courtly guise—
A rural lad with spring-flowers laden—
To win to love the beauteous prize.

She takes (oh, simple girl) the former,
And sends the village swain away;
She'll find, alas! his cottage warmer
Than the proud dwelling of Jack Gray.

She married Jack, he spent his living
In thrifless aims and deadly brawls;
And she his wickedness forgiving,
Wept weeping in his lonely halls.

It seemed as if her soft form melted,
So thin and colourless she grew,
And they who saw how sorrow pelted,
Decided that her days on earth were few.

He died—but not till his last shilling
Had wanton woman's cravings fed;
Had left her penniless, but willing
To earn by honest toil her bread.

She leaves the city and its glitter;
Its grandeur oft from peace apart;
Deemed her native village fitter
To hide her broken hopes and heart.

She reach'd it;—scarce her mother knew her,
So blanched her cheek and sunk her eye;
And the old friends that gathered to her,
Seem'd 'twas a phantom fitting by.

They press'd her hands, and some are kissing—
Try every art to make her glad;
None from the joyful group are missing,
Even Willie comes, the bauld lad.

Hope and kind nursing to health bro't her,
Again the rose bloom'd on her cheek,
And lovers gay and wealthy sought her,
But grief has made her wishes meek.

She thanks them for her splendid prosers
Of jewels and rich trappings gay,
But says, she better likes the others,
That Willie makes the widow Gray.

THE REPOSITORY.

FROM THE WORCESTER MAGAZINE.

FORT ERIE.

"The shattered wall
Black with the miner's blast, upon her height,
Yet shows of what she was when steel and ball
Rebounding idly on her strength did light;
A tower of victory! from whence the flight
Of baffled foes was watched along the plain.
But peace destroyed what war could never blight;
And laid those proud roofs low to Summer's rain,
On which the iron shower for years had poured in
vain."

Scarcely ten years have passed since the commotion of warfare raged along the northwestern frontier of the United States, and those peaceful inhabitants, separated by the broad stream, and interchanging mutual offices of friendship, hospitality, and kindness, were divided by the barrier of hostility, and met only as foes, to seal their union in blood. Yet even now, time has obliterated the traces of desperate encounters, and the visitor of this classic ground, needs an admonition from the record of history to tell him, that every step he treads is on the graves of the slain; that the fields where the harvest spreads its golden mantle, and the green grass waves high, were the scenes of carnage: that from each silent embrasure of the ruined fortresses the battle-guns poured out its iron hail: and that the fair tree, bending so gracefully in the summer wind has been nourished by the purple current flowing from the hearts of the brave. The luxuriant verdure of Erie, of Chippewa, of Queenstown, and of Bridgewater, springs from clay once animated by living valor; and the reaper gathers up his sheaves of grain where death has reaped on a nobler harvest. The same careless forgetfulness that prompts the merry song of the labourer on those wide burial plains, has extended to our own countrymen. The memory of the departed slumbers with the past; and we hold no solemn anniversaries to brighten the recollection of their great actions. The names of the dead are seldom heard, except from those who mourned, when they fell, for the loss of some who were dear in the circles of domestic and social affection. The band of the survivors spared by the fight is fast diminishing. Perry died on a foreign shore: Decatur escaped the shot of the foe to expire by the hand of a friend: the gallant Macdonough, who displayed our flag in triumph on the waters of Champlain, has yielded to the slow advances of wasting disease; and few will be left to feel the mortifying contrast between the honours so warmly given in the hours of recent success and the coldness of neglect. But the duty of gratitude, so reluctantly performed by this generation, may be safely trusted to posterity: they will appreciate merits, and freshen the laurels of the men who so well served their country, and they will guard with equal veneration the memories of Perry and of Nelson, and keep with the same fidelity the fame of the brave of our infant republic and the names of the great of the proud monarchies of ancient days.

Around those spots which have been reddened with the blood of our countrymen, there is an attraction, which will often draw the travel-

ler from his path. The fields where the finger of decay has wasted the traces of sanguinary encounter. His temperament must be cold indeed, who can tread where the youthful and the brave have fallen like the summer leaves. There is a silent eloquence in those spots, which stirs the deepest feelings of the soul. We shall incur no risk of exhausting the patience of the reader so far, that no stock will remain for our future draughts, if we carry him to one of the scenes of carnage, and briefly trace the dim recollections of its history.

The fortress of Erie, during the late war with England, was the theatre of gallant exploits, and the scene of brilliant victories. The movements of the contending armies in its neighbourhood, were then watched with intense interest and keen anxiety. This post is situated on the northeastern shore of Lake Erie, in the province of Upper Canada, about twenty miles above the Falls, on a plain overlooking the magnificent expanse of waters. Here the Niagara river goes out, and its floods, confined in a narrow and rocky channel, rush impetuously along. On the American shore is the flourishing and neat town of Buffalo, which, in the course of a contest, marked on both sides by most disgraceful and barbarous acts of wanton destruction, and in this quarter diversified by deplorable incidents of cruel outrage and individual suffering, was burnt by the British forces; but has now risen in renewed beauty from its ashes, and presents an animating picture of the effects of enterprise, industry, and consequent prosperity. On crossing from this village, we embark on the foaming stream for a passage, rendered fearful by the violence of the waves rolling down from the lake, and the whirling and eddying of the waters among the hidden rocks. So rapid is the current, that the boat usually ascends about three quarters of a mile, and notwithstanding the utmost exertions of the expert and athletic oarsman, is frequently carried far below the spot of its departure. A short distance downward, in the midst of the river, is Grand Island, smiling like another Eden, now well known as the chosen spot selected by the self-constituted Governor of Israel, for the metropolis of his assumed empire, the asylum where the dispersed tribes of the Hebrews should gather under the shadow of his protection, and find an Ararat of Refuge from the persecutions of the nations. A short walk, along the margin of the English territory, brings us to the military works, now dilapidated and ruinous. In the centre stands a heavy wall of solid materials, thirty feet in height, pierced for artillery, still bearing the dint of cannon balls, fired during the long siege it sustained, and surrounded with numerous intrenchments. The principal gate-way was through this piece of masonry, and was defended by a triangular mound, so situated as to compel the assailants to advance in a direct line with the range of the guns. On the East, a line of defences extended down the lake, then turning northward and running parallel with its margin, and with the ramparts of the fort, it went far onward. Northward was the front, where the fortifications were constructed with the greatest care. Two huge bastions projected towards the plain, and with their connecting parapet were joined to the walls. At their base was a deep ditch, and the remains of batteries and other parapets are thrown still further in advance. The plain beyond, is skirted by an ancient forest, under whose thickets were planted the battering train of the British army. The lofty trees are pierced with large holes made by the passage of cannon bullets, and their shattered trunks and mutilated bodies, still bear the scars of the fight and the memorials of warfare.

Soon after the commencement of the war, in May, 1813, this post was abandoned by the British, and occupied by the Americans. Before the close of that year it fell again into the hands of its former owners. On the 3d of July, 1814, it was seized by Gen. Brown, and soon became the seat of destructive warfare. The series of bloody battles distinguishing the campaign of that year, had enfeebled the army, and after the carnage at Bridgewater, where one thousand three hundred and eighty-four gallant men were sent to render up their last account, or, lingering under the torture of severe wounds, were disabled from the pursuit of their dreadful profession, Gen. Ripley, the officer in command, finding himself unable to keep the field against a superior force, retired to Fort Erie, then scarcely tenable. On the 3d of August, Gen. Drummond, with a force of five thousand men, invested the post, and despairing of success by assault, commenced a regular siege. A cannonade was opened and constant skirmishes took place. The besieged laboured incessantly to strengthen their position and increase their defences. Many days were passed without decisive action, while the one party were slowly and cautiously making their approaches, and the other patiently but actively preparing for the reception of their foes. Gen. Gaines in the mean time had arrived and taken command of the fort. The armies lay within full view of each other. The British camp was placed on the margin of the woods, and its numerous tents whitened the plain. The morning of the 14th was bright and fair; the glittering of bayonets, the waving of the long line of plumes, and the gay dresses of the assailants mustered behind their intrenchments, could be seen from the fortress. No extraordinary movement foretold the fearful events of the night that came on dark and heavily. But many a soldier who at evening had laid down to repose from his toils, at midnight, when the trumpet sounded its signal note, started from his bed, to exchange the visions of slumber for the dreamless sleep of eternity. The British General had arranged his forces in three columns for a desperate attempt. About two o'clock in the morning the advance of the first division was discovered

through the darkness, on the left of the garrison, where a line of brush hastily thrown up was the representative of earth and stone. They approached silently, when the blaze of musketry flashed along the American line, and the assailants recoiled before the destructive fire. Rallied by the exertions of the officers, they again advanced, and again were driven back with terrible loss. A third time they renewed the attempt, but again, routed and broken, they were compelled to retreat. The second column advanced on the front: but there, the artillery, at every discharge, swept through their ranks; they paused, and in dismay followed their companions. The third division, eight hundred strong, after a bold and equally ineffectual assault, retired in confusion. Drummond, unwilling thus to abandon his undertaking, concentrated his troops for another onset. The darkness of night, made more thick by the smoke of the battle, favoured his approach.—Stealing silently along the ditch, on the eastern side, the scaling ladders were applied, and he mounted the parapet, shouting to his men to give no quarter. The sanguinary order was obeyed, and the bastion carried, after the slaughter of its defenders. Lieut. Macdonough, wounded, and faint with the loss of blood, called for mercy; the sanguinary order was repeated; the spirit of the dying man revived, and seizing a hand-spike, he fought until the blood-thirsty officer shot him with his own pistol. The murderer was soon avenged. After finishing this act of cool barbarity he received a ball in his breast and instantly expired. The enemies, notwithstanding the loss of their leader, maintained their position and repulsed the attempts to dislodge their forces. The reserve was preparing to move to their support, when suddenly an explosion burst from the magazine beneath the battery where they stood, and the mangled bodies of the soldiers, blackened with smoke and scorched with flame, were seen, as they were thrown to a great height, and fell amid the masses of rock and timber, in the overwhelming ruin. Thus ended the tremendous encounter of that night. When the morning sun rose on the scene of slaughter, two hundred and twenty-two of the assailants were stretched out on the field of death; one hundred and seventy-four were wounded; and one hundred and eighty-six remained as prisoners.

From this period, until the 17th of September, the siege was prosecuted with vigour. Daily recruits of militia and volunteers arrived to the support of the garrison, and Gen. Brown having recovered from his wounds resumed the command of the army. On that day, led on by Miller, Ripley, Davis and Porter, the forces made a sortie, one of those bold movements, decisive of the fate of war. The beleaguered corps were cut in pieces, their cannon destroyed, their batteries blown up, their intrenchments prostrated, and they soon after abandoned their position and retired to Fort George.

At the close of the campaign the fort was dismantled, and Gen. Brown retired across the river to his winter quarters.

The ramparts are now grass grown, and the ditches choked with rank weeds. Along the breast-work which guarded the shore of the lake, the road to the village of Erie now passes, and the defences which once sheltered our countrymen from the death-shot are now levelled, that the luxurious visitor may roll along over its smooth highway. The miserable huts of the emigrants are erected where the tents of an army were once reared. The wall, once lighted by the flash of musketry, and shaken by the burst of cannon, now supports the roof of a stable. No watch-fires blaze, and no sentinel paces his weary round, within those lines where desolation reigns. The little hillocks and swelling turf on the plain around, which mark the resting places of almost four hundred brave soldiers gathered in the freshness of youth and vigour of strength to the congregation of the silent, are fast diminishing in height as the plough sweeps over the field of sepulchres. Every where destroying time is busy. The scene presents an image of desolation. Yet it has a melancholy beauty, particularly when viewed by the dim light of a summer moon, silvery wood and field, bastion and parapet, grave and mound, and brightening the surface of the lake whose waves roll and break on the shore with a mournful murmur.

INSURANCE.

THE subscriber having been appointed Agent of the NEW-ENGLAND FIRE INSURANCE COMPANY, incorporated for the express purpose of insuring against loss or damage by fire, with a Capital of two hundred thousand dollars, is now ready to receive proposals for insurance, at a very low rate of premium—so that people may have perfect security from that kind of loss which the greatest care and attention cannot always prevent, and which frequently reduces, at once, affluent and independent families to poverty and distress.

Payment for all losses will be made within thirty days after the loss shall be ascertained and proved without any deduction whatever.

ASA BARTON.

COMMISSIONERS' NOTICE.

WE the subscribers having been appointed by the Hon. BENJAMIN CHANDLER, Judge of Probate for the County of Oxford, to receive and examine the claims of the several creditors to the estate of ELIJAH GILBERT, late of Turner, in said County, deceased, represented insolvent, do hereby give notice, that six months from the twenty-fourth day of January last, are allowed to said creditors to bring in and prove their claims; and that we shall attend that service at the dwelling-house of ALDEN BLOSSOM, Inholder, in said Turner, on the second Tuesdays of March, May and July, from one to five o'clock in the afternoon of each day.

ALDEN BLOSSOM,
NATHAN COLE,
ASA BARTON,
Tunier, Feb. 4, 1826.

NOTICE.

THE subscriber informs his friends and the public that he has re-commenced the SHOE-MAKING BUSINESS in Paris, where he intends to do his work in a good and faithful manner, and handsome style, and on reasonable terms.

BENJA. F. CRAWFORD.
Paris, Feb. 9.

HOUSE & LAND FOR SALE.

THE subscriber offers for sale the Stand which he now occupies—consisting of a good two-story DWELLING-HOUSE, well finished, and in good repair—containing four Rooms on the floor, four Chambers, and a good Cellar. A Wood-House, Barn, and a two-story STORE, all finished. A good rain-water Cistern, and a Well of water under cover. Three fourths of an acre of LAND, including a Garden, &c.

Also, the West part of Lot numbered 15, in the 6th Range of lots in Paris, containing fifty-four acres, well walled in, and is excellent grass and tillage Land.

Also, seven small Lots of LAND—containing from ten to twenty-one acres each—a part of which is as good and well wooded as any in town, the other is good pasture and tillage land, and is well fenced on the road. Said Land is a part of Lot numbered 11, in the Fourth Range of Lots in Paris.

Likewise, one and a fourth acre of LAND, situated about three fourths of a mile from the Court-House in Paris, on which is an excellent stream of water, with a good fall, which, with a very little expense, might be converted into one of the best situations for a tanner, in the County.

The above property will be sold either together or separately, as will best suit the purchaser, and on terms which cannot fail to please. For further information, please call on the subscriber.

A plan of the above property may be seen by calling on ASA BARTON, Esq. at the Oxford Bookstore.

Dec. 20.

RUSSELL HUBBARD,

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COLLECTOR'S NOTICE.....Newry.

NOTICE is hereby given to the non-resident Proprietors and owners of the following lots of Land, in the town of Newry, County of Oxford, that they are taxed in the bills committed to me the subscriber, Collector of said town of Newry, for the years 1824 and 1825, in the respective sums following, to wit:

Owner's Name.	No. of Lots.	Range.	No. of Lots.	Range.	No. of Lots.	Range.	County Tax.	State Tax.	Value.
Simeon Daily,	3	4	200	100	11	32			
Moody,	3	5	100	50	5	76			
Steph. Randall,	1	4	100	50	5	76			
Simeon Bailey,	3	4	280	100	1	70			
Moody,	2	4	100	50	0	86	1	05	
Steph. Randall,	1	4	100	50	0	86	1	05	

Unless said taxes and all intervening charges are paid to me the subscriber, on or before Saturday the twenty-fifth day of March next, so much of said land as will satisfy the same, will then be sold at Public Vendue at the School-house in the South District in said Newry, at one of the clock in the afternoon of said day.

ANDREW N. STOW,

Collector of Newry.

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Newry, Feb. 7, 1826.

COMMISSIONERS' NOTICE.

WE the subscribers having been appointed by the Hon. BENJAMIN CHANDLER, Judge of Probate, to receive and examine the claims of the creditors to the estate of DAVID SESSIONS, late of Andover Surplus, in said County, deceased, represented insolvent, do hereby give notice, that six months are allowed to said creditors to bring in and prove their claims; and that we shall attend that service at Andover Hills, Esq. of Newry, on the first Tuesday of May and the first Tuesday of July, at one of the clock, P. M.

ELIJAH TWITCHELL,

AMOS HILLS,

Dated at Bethel, January 27, 1826.

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THE OBSERVER

IS PUBLISHED EVERY THURSDAY MORNING BY

ASA BARTON,

For the Proprietors, at two dollars per annum, payable semi-annually.

No paper discontinued, until all arrearages are paid, but at the option of the publisher.

ADVERTISEMENTS conspicuously inserted, and on the usual terms.

* * * All letters, addressed to the publisher, must be Post Paid.

AGENTS FOR THE OBSERVER.</h